

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 9/18/08
--

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
EDWARD SAMS,

Petitioner,

-v-

JOHN J. DONELLI, Superintendent of Bare
Hill Correctional Facility,
Respondent.

07 Civ. 4600 (DLC)

ORDER

-----X
DENISE COTE, District Judge:

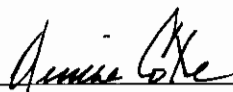
Edward Sams submitted a petition for habeas relief that was received on April 26, 2007. On July 28, 2008, this Court issued an Opinion and Order denying respondent's motion to dismiss the petition without prejudice. In an accompanying Order of July 28, 2008, this Court ordered Sams to make a submission to the Court addressing the issue of procedural default by September 5, 2008, and told Sams that failure to make such a submission would result in the dismissal of his habeas petition. No such submission having been received by the Court, it is hereby

ORDERED that the respondent's motion to dismiss the petition is granted. In addition, the Court declines to issue a certificate of appealability. Sams has not made a substantial showing of a denial of a federal right, and appellate review is therefore not warranted. Love v. McCray, 413 F.3d 192, 195 (2d Cir. 2005). The Court also finds pursuant to 28 U.S.C.

§ 1915(a)(3) that any appeal from this order would not be taken in good faith. Coppedge v. United States, 369 U.S. 438, 445 (1962). The Clerk of Court shall dismiss the petition.

SO ORDERED:

Dated: New York, New York
September 18, 2008



DENISE COTE
United States District Judge

COPIES SENT TO:

Edward Sams
1385 Stebbin Avenue, Room 205
Bronx, NY 10459

Ashlyn Hope Dannelly
New York State Office of the Attorney General
120 Broadway
New York, NY 10271